



Medicaid Can Help Couples Pay the Cost of a Spouse's Care in a Medical Facility



Protecting Your Resources and Income



**South Dakota Department of Social Services
Medical Assistance Program**



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Medicaid Can Help Couples Pay the Cost of a Spouse's Care in a Medical Facility



This handbook answers questions on how Medicaid may be able to help a couple pay the cost of a spouse's care in a medical facility. A couple may not have to spend all of their money before the spouse in the medical facility qualifies for Medicaid.

The policies in this pamphlet apply only if you plan to stay or have stayed in the medical facility 30 days or more and entered after September 30, 1989.

Some of the information in this handbook may be hard to understand. If you have any questions, please contact your nearest Department of Social Services office.

Following are explanations of some terms:

Resource Protection: A certain amount of the things owned and the money saved by the couple can be kept by the spouse at home. Resource protection is also referred to as the “protected share”. (See page 4.)

Income Allowance: The amount of income that can be protected for the spouse at home. (See page 9.)

Community Spouse: The community spouse could live in the couple’s own house or apartment, with relatives, or in other non-facility settings. (Also referred to as “the spouse at home”.)

Medicaid: A joint federal and state program that can help pay medical bills including cost of care in a medical facility.

Medical Facility: A hospital, nursing home, many assisted living facilities or when receiving certain approved medical services in your home or community.

When Can Medicaid Help?



Medicaid could pay the full facility cost or part of the facility cost depending on your resources and income. If the spouse in the facility wants to find out if he or she qualifies for Medicaid, an application must be filled out and given to the Department of Social Services (DSS). The form is called “Application for Long

Term Care or related Medical Assistance” and is available at DSS offices.

Different Medicaid policies apply for persons who stay less than 30 days or entered before September 30, 1989. You still need to complete an application form (the same one mentioned above) to see if you qualify for Medicaid.

The following pages have information on the resource and income guidelines your DSS worker will follow to see if requirements are met for Medicaid to pay toward the cost of care in the medical facility and to establish the amount of the resource protection for the spouse at home.

What Resources Can Be Protected?

When a spouse enters a medical facility on or after September 30, 1989, there are four main steps to determine the resources that can be protected for the spouse at home and when the spouse in the medical facility can qualify for Medicaid.

1. **Total Resources:** If the spouse entering a medical facility (expecting to stay for 30 days or more) is going to need Medicaid now or in the future, the protection of resources for the spouse at home depends on the couple's combined resources as of the day the spouse entered the medical facility.

Because of this, the amount of resources that can be protected should be determined as soon as possible. Your DSS caseworker can give you a form called "Resource Assessment" that you fill out as soon as a spouse enters the medical facility. It is better to fill this form out as soon as possible after entry because it is easier to prove your resources for the day the spouse entered the facility now than at a later date. The "Resource Assessment" will also benefit the couple with their financial planning.

When you have completed the form, return it to your DSS office. DSS will request information and documents to confirm what you have stated on the form. Through a "Notice of Resource

Assessment,” DSS will inform each spouse and, if applicable, his or her representative, of its decision on what resources can be protected; otherwise this information is confidential.

2. **Countable Resources:** Resources that are owned as of the day of entry into the facility must be counted by DSS. Some are not counted at all. However, all resources held by both or either spouse, jointly or separately, should be listed on the “Resource Assessment” form.

Resources not counted include: The house that the spouse (or dependent relative) lives in, an automobile, most household goods/personal effects and certain funds designated for burial expenses.

Resources counted include: Items such as cash, savings and checking accounts, certificates of deposit, stocks and bonds, the cash value of life insurance, contracts for the sale of real estate and other financial instruments.

3. **Resources For Each Spouse:** To determine the amount of resources that can be protected for the spouse at home, DSS totals the amount of your countable resources as a couple and divides it by two. One-half of the total resources or \$20,000, whichever is greater, can be protected for the spouse at home. However, if half of the resources are more than \$99,540*, only \$99,540 can be protected for the spouse at home. (See page 7 for examples.)

(You will see several dollar amounts followed by this symbol “*”. This means that the amounts are indexed for inflation and change when the federal government releases the annual inflation rate.)

The maximum amount of protected share for the spouse at home may be increased by a court order, or by an appeal decision, in order to increase income of the spouse at home. (Also see page 13.)

Note: Resources given away by either spouse may effect the Medicaid payment to the nursing facility.

4. **Medicaid Eligibility:** To determine if the spouse in the medical facility is eligible for Medicaid to help pay medical facility costs, the protected share for the spouse at home is subtracted from the couple’s total resources. If the result is \$2,000 or less, the spouse in the medical facility meets the resource test for Medicaid to help pay the facility cost.

An application must be completed for DSS to determine Medicaid eligibility. Your DSS worker will follow these guidelines to determine your protected share and see if you qualify for Medicaid.

Here are some examples that may help you better understand resource protection:

R E S O U R C E S

Example: Mr. Erickson entered a nursing home on March 27, 2004. He and his wife together own \$200,000 in countable resources. One half of their countable resources is \$100,000. Mrs. Erickson living at home, was able to keep \$99,540* and the remaining \$100,460 was counted for Mr. Erickson. Since resources of \$100,460 were counted for Mr. Erickson, his resources exceeded the \$2,000 resource limit and he did not qualify for Medicaid payments to the nursing home at this time.

Note: The \$100,460 can be spent down to the \$2,000 resource limit by either Mr. or Mrs. Erickson.

Example: Mr. Roth entered a nursing home on May 1, 2004. Mr. and Mrs. Roth together have countable resources of \$11,000. All of the resources are protected for Mrs. Roth since total resources are less than \$20,000, and Mr. Roth is resource eligible for Medicaid.



Does it Matter Whose Name the Resources are In?

Yes, after DSS determines that the spouse in the medical facility is eligible for Medicaid, resources must be counted for the spouse who actually owns the resources. Any resources owned by the spouse in the Medical facility that are more than the \$2,000 resource limit must be transferred to the spouse at home soon after the spouse in the facility is determined Medicaid eligible. This must be done so the spouse in the facility can remain eligible for Medicaid to pay the cost of the medical facility. Here is an example of resource protection and resource ownership:

Example: Mr. Johnson entered a nursing home on June 2, 2004. He and his wife together have countable resources of \$21,000. Even though half of these resources are \$10,500, Mrs. Johnson can keep \$20,000. Since only \$1,000 needs to be counted as a resource to Mr. Johnson, he could qualify for Medicaid payments to the nursing home. However, Mr. Johnson owns a Certificate of Deposit (CD).

In order to remain eligible for Medicaid payments to the nursing home, he must transfer ownership of the CD to his wife so his resources will be within the \$2,000 limit. He could transfer all or a part of the CD to his wife. This transfer must be made as soon as possible from approval for Medicaid to ensure continued Medicaid eligibility.

What is the Income Limit?

The income of the spouse in the medical facility cannot be more than three times the SSI benefit for Medicaid to help pay the cost of the facility. (Three times the SSI benefit is \$1,809* per month.) If the income of the spouse in the facility is more than three times the SSI benefit there may still be eligibility if the income is placed in an approved income trust. Visit your local DSS office for more information on income limits or approved income trusts.

What Income Can Be Protected?

Once the spouse living in the medical facility qualifies for Medicaid payments to the facility, his or her income can be protected for the spouse at home. There are three main guidelines to determine what income can be protected.

1. **Monthly Income:** The spouse in the medical facility can keep \$60 of monthly income for personal needs, plus up to an additional \$75 from his or her earned income. The spouse in the facility may use the remaining income as described in 2 and 3.
2. **Income Allowance:** An amount of income may be allowed from the income of the spouse living in the medical facility for the spouse at home. The income of the spouse at home is subtracted from \$1,604* to determine the amount of income the spouse in the facility can give to the spouse at

home. The income allowance may be greater than \$1,604 if the spouse at home has shelter expenses in excess of the standard amount or there is a court order or an appeal decision ordering a greater amount. (Also see page 13.) It is possible that the income allowance will be greater than the income available from the spouse in the facility. (See first example on page 11).

An amount of income can also be allowed for certain dependent relatives living with the spouse at home. This amount is determined by subtracting the gross monthly income of each dependent from \$1,604 and dividing that amount by three. The spouse in the medical facility must first provide income for the spouse at home before any income can be made available to the dependents.



3. **Remaining Income:** The remaining income of the spouse in the facility can be used for certain private health insurance premiums, if any, for him or her. The rest of their income is used toward payment of the cost of care in the facility. Payment to the facility is called a co-payment.

Here are some examples that may help you better understand income protection:

Example: Mrs. Rogers lives in a nursing home with \$400 gross income and Mr. Rogers lives at home with \$900 gross monthly income. The amount of income allowance that can be protected for Mr. Rogers is determined as follows:

Mrs. Rogers (in facility)	
\$400	gross monthly income
<u>- \$60</u>	personal needs
\$340	is available for Mr. Rogers
Mr. Rogers (at home)	
\$1,604	income allowance
<u>- \$900</u>	gross monthly income
\$ 704	could be allowed from Mrs. Rogers' income for Mr. Rogers, but she only has \$340 available to give him.

Example: Mr. Smith lives in a nursing home and Mrs. Smith is living at home. Mr. Smith has gross monthly income of \$1,300. Mrs. Smith has gross monthly income of \$800. The amount of income allowance that can be protected for Mrs. Smith is determined as follows:

Mr. Smith (in facility)	
\$1,300	gross monthly income
<u>- \$60</u>	personal needs
\$1,240	is available for Mrs. Smith
Mrs. Smith (at home)	
\$1,604	income allowance
<u>- \$800</u>	gross monthly income
\$ 804	can be allowed from Mr. Smith's income for Mrs. Smith.

Mr. Smith has remaining income of \$436 after giving the \$804 to Mrs. Smith. (\$1,240 minus \$804 leaves \$436). Of the remaining income, an allowance can be made for Mr. Smith's private health insurance premium or Medicare Part D co-payments, and the remainder would then go to the facility as a co-payment for the nursing home services.

Co-payment means a spouse in a medical facility shares in the cost of care by paying some of his or her own income to the medical facility. DSS determines the amount of co-payment. The income of the spouse at home is NOT used to pay for the cost of care of the spouse in the nursing facility.

Does it Matter Whose Name the Income is In?

Usually when income is issued in the name of an individual, it is considered income to that individual. If the income is in the names of both spouses, the income is considered as one half for each spouse. If there is trust property, the income shall be considered according to the trust document. Other examples of income include Social Security and Veteran's pensions and compensations, pensions from employment, etc. If an income allowance is allowed for the spouse at home, the income of each spouse must be established and any changes in income of either spouse must be reported to the DSS office within 10 days of the change. If there is a dependent receiving an income allowance, any changes in that income must also be reported within 10 days.

What are my Rights?

If you are dissatisfied with the actions or lack of action by DSS, you should discuss the matter with your DSS worker. If a satisfactory agreement cannot be reached, you have a right to file an appeal and ask for a fair hearing.

If you believe more income or resources should be protected for the community spouse to raise the community spouse's income, you have a right to file an appeal 30 days from the date you receive notice of the results of your application for Medicaid assistance. When you appeal the decision this protects your right to a fair hearing.

If a hearing is requested, it will be an informal meeting before an administrative law judge from DSS Administrative Hearings in which you can present your complaint. All the facts will be reviewed to see if the decision was correct or should be changed.

Once you or your spouse has been approved for Medicaid, you will continue to have fair hearing rights. If you or your spouse receive a "Notice of Action" that you feel is incorrect, you have 10 days to request a hearing to continue your Medicaid benefits until your appeal is heard or decided.

What are my Responsibilities?

Present your South Dakota Medical Benefits Card each time you request services from a health care provider.

Inform your DSS office of changes in your address, income or resources, and any other changes that may affect your eligibility or amount of benefits. If a spouse or dependents are receiving an income allowance, any change in their income and resources must be reported. Please report any changes within 10 days for someone currently receiving benefits.

Inform your health care providers of any medical benefits that you have (Medicare, insurance, etc).



R E S P O N S I B I L I T I E S

Notify your DSS office within 10 days of any changes in your health insurance coverage. You may be required to provide information and proof of any medical insurance or other benefits available to you.

File a claim or application for any income or medical benefits that may be available to you. If required, you must also cooperate in the processing of any such application.

Refund to DSS any money that you receive from a person or company to pay medical expenses which would otherwise be paid by Medicaid.



Local Social Services Offices

Aurora, Davison, Hanson, Jerauld, McCook and Sanborn	995-8000
Beadle and Hand	353-7105
Bennett, Butte,Custer, Fall River, Harding, Jackson, Lawrence, Meade, Pennington and Shannon	394-2525
Bon Homme and Yankton	668-3030
Brown, Day, Edmunds, Marshall and McPherson	626-2381
Brule, Buffalo, Gregory, Jones, Lyman, Mellette, Todd and Tripp	842-0400
Campbell, Corson, Dewey, Haakon, Hughes, Hyde, Perkins, Potter, Stanley, Sully, Walworth and Ziebach	773-3612
Charles Mix and Douglas	487-7607
Clark, Codington, Deuel and Hamlin	882-5000
Clay and Union	356-3346
Faulk and Spink	472-2230
Grant and Roberts	432-9588
Brookings, Kingsbury, Miner and Moody	688-4332
Lake	256-5683
Minnehaha, Lincoln and Turner	367-5500
Hutchinson	387-4219

Visit us on the Web at:
www.state.sd.us/social/medelig



DSS Nondiscrimination Policy:

It is the policy of the Department of Social Services (DSS) to make sure that applications for program benefits and services are made available to everyone and that program benefits are granted to all who meet eligibility standards. DSS staff, programs and policies must not discriminate against clients or applicants for services because of race, color, sex, age, disability, religion and national origin. DSS must also provide fair and equal access to all of its programs and services for people with disabilities; this includes both physical access to buildings and access to programs and services. To file a complaint of discrimination write: PMB0141-1, DSS Human Resource Manager, 500 East Capitol Ave., Pierre, SD 57501-5070 or call: (605) 773-6941. If you have a question regarding program services, please contact your nearest DSS office.

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